



November 16, 1999

Ms. Anne M. Constantine  
Legal Counsel  
Dallas/Fort Worth International Airport  
3200 East Airfield Drive  
P.O. Box 619428  
DFW Airport, Texas 75261-9428

OR99-3259

Dear Ms. Constantine:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129522.

The Dallas/Fort Worth International Airport Board (the "board") received a request for a copy of the minutes taken in a meeting between the requestor and his director. You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and have reviewed the document at issue.

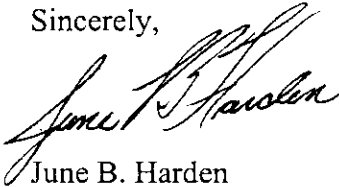
Section 552.103(a) excepts from disclosure information relating to litigation to which the state or a political subdivision is or may be a party. The board has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *University of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479, 481 (Tex. App.--Austin 1997, no pet.); *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 at 4 (1990). The board must meet both prongs of this test for information to be excepted under section 552.103(a).

The mere chance of litigation will not trigger section 552.103(a). Open Records Decision No. 452 at 4 (1986). To demonstrate that litigation is reasonably anticipated, the governmental body must furnish *concrete* evidence that litigation involving a specific matter is realistically contemplated and is more than mere conjecture. *Id.* Whether litigation is

reasonably anticipated must be determined on a case-by-case basis. Open Records Decision No. 452 at 4 (1986). After reviewing your arguments, we conclude that you have not demonstrated that litigation is reasonably anticipated. Thus, you may not withhold the responsive information under section 552.103(a).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "June B. Harden", written in a cursive style.

June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/ch

Ref: ID# 129522

Encl. Submitted documents

cc: Mr. Uday Patil  
401 Fairhaven Drive  
Hurst, Texas 76054  
(w/o enclosures)